

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NICHOLE ABBOTT,

Plaintiff,

Case # 15-CV-6487-FPG

v.

DECISION AND ORDER

NANCY A. BERRYHILL,¹
ACTING COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Plaintiff Nichole Abbott (“Plaintiff”) commenced this action on August 14, 2015 and the Clerk of Court issued Summonses for the Acting Commissioner of Social Security (“Defendant”) on November 16, 2015. ECF Nos. 1, 4, 5. Because there was no indication that Plaintiff caused those Summonses and the Complaint to be served on Defendant, on December 12, 2016 Plaintiff was ordered to show cause in writing by January 6, 2017 why this case should not be dismissed under Fed. R. Civ. P. 4(m) for failure to effect service within 120 days. ECF No. 6.

Since then, the Court has been informed that Plaintiff’s attorney, Emily Karr-Cook, Esq., is unable to retain this case due to illness and because she has retired from the practice of law. The Court interprets the correspondence it has received as a request to withdraw as counsel of record. In accordance with Local Rule 83.2(d)(1), the Court finds that “good cause” exists to allow Ms. Karr-Cook to withdraw from this case. Accordingly, Ms. Karr-Cook is relieved as Plaintiff’s attorney. If Plaintiff has retained new counsel, that attorney shall file a Notice of Appearance. Unless such Notice is filed, the Court assumes that Plaintiff is now proceeding *pro se*.

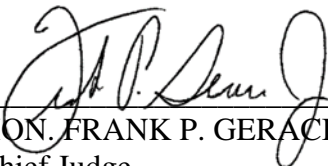
¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security and is therefore substituted for Carolyn W. Colvin as the defendant in this suit pursuant to Federal Rule of Civil Procedure 25(d).

On September 2, 2015, Plaintiff was granted *in forma pauperis* status and was informed that her attorney would serve the papers in this case. ECF No. 3. Because Plaintiff no longer has an attorney, the Court hereby extends the time limit for service pursuant to Fed. R. Civ. P. 4(m) until **August 25, 2017** and directs the Clerk of Court to file Plaintiff's papers and cause the United States Marshal to serve copies of the Summons, Complaint, and this Order upon Defendant without Plaintiff's payment. Unpaid fees will be recoverable if Plaintiff receives a monetary award through the termination of this action.

A copy of this Order is being mailed to Plaintiff at 1146 County Route 60, Elmira, NY 14901. The Clerk of Court is directed to send Plaintiff a copy of Local Rule of Civil Procedure 5.5 regarding filing deadlines in Social Security matters and to update the docket to reflect Plaintiff's *pro se* status.

IT IS SO ORDERED.

Dated: July 25, 2017
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court